

**REMARKS**

Claims 1 and 3-10 are currently pending. By this Amendment, claims 1, 3 and 5-9 are amended and claim 10 is added. Support for the amendments to claim 1 can be found at least in Figs. 1 and 2 and the corresponding disclosure in the specification. Claims 3 and 5-9 are amended for form and/or for antecedent basis. Support for new claim 10 can be found at least in Fig. 2 and the corresponding disclosure in the specification. No new matter is added.

Claims 1 and 3-9 are rejected under 35 U.S.C. §103(a) over Nishijima (U.S. Patent No. 4,681,423) in view of Suehiro (U.S. Patent Application Publication No. 2003/0174355). The rejection is respectfully traversed.

Nishijima and Suehiro, alone or in a permissible combination, do not teach every claimed feature of independent claim 1. Nishijima and Suehiro do not teach "wherein the fixing control unit performs either one of the first control processing or the second control processing based on the set operation mode when the original detection detects the set original," as recited in independent claim 1 (emphasis added).

Nishijima merely relates to a copy machine that starts a warm-up operation in response to either a key being pressed or the detection of an original recording medium (see Abstract of Nishijima). However, this warm-up operation is not determined until the user begins preparing the recording medium to be copied or transmitted through facsimile communications. In other words, the warm-up operation of Nishijima is not set in advance (see Abstract of Nishijima). Therefore, Nishijima does not teach "wherein the fixing control unit performs either one of the first control processing or the second control processing based on the set operation mode when the original detection detects the set original," as recited in independent claim 1.

Suehiro does not remedy the deficiencies of Nishijima. Suehiro is applied by the Office Action only for its alleged teaching of a second operation mode (see May 12, 2008 Final Rejection, page 2).

Therefore, for at least these reasons, independent claim 1 is patentable over the alleged combination of Nishijima and Suehiro. Claims 3-9 depend from independent claim 1. Therefore, claims 3-9 are patentable for at least their dependency on independent claim 1, as well as for the additional features they recite.

For example, Nishijima and Suehiro do not teach "wherein the mode setting unit determines one of the transmission processing and the copy processing which has been performed more frequently based on the history of the past processing, and sets the operation mode of the fixing control unit to one of the first control processing and the second control processing according to the determination," as recited in claim 7.

Neither the January 2, 2008 Office Action, the May 12, 2008 Final Rejection nor the August 21, 2008 Advisory Action provides any support for the rejection of claim 7.

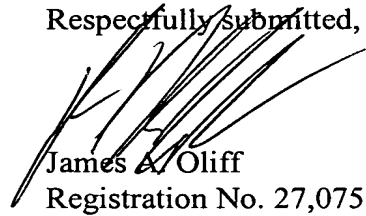
Further, neither Nishijima nor Suehiro discloses any device that determines which processing has been performed more frequently. None of the applied references discloses setting either the alleged first control processing or the alleged second control processing based on how frequently the processing is used. Rather, Nishijima merely teaches that the warm-up operation is performed in response to either a key being pressed or the detection of an original recording medium (see Abstract of Nishijima); and Suehiro is applied by the Office Action only for its alleged teaching of a second operation mode (see May 12, 2008 Final Rejection, page 2). Therefore, claim 7 is also patentable over Nishijima and Suehiro.

Applicants thus respectfully request withdrawal of the rejection.

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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